THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION No. 23949 of 2005

DATED: 25.11.2005

Between:

Boorugupudi Matsya Sahakara Sangham.

… PETITIONER

AND

The Assistant Director of Fisheries, Kakinada and others.

… RESPONDENTS

ORDER:

The petitioner is a Fishermen Cooperative Society. It has been granted lease of fishing rights in Dusslam Tank of Boorugupudi Village, Kirlampudi Mandal, East Godavari District, for the past several years. Through an agreement, dated 13.09.2004, it has been granted lease for three years, commencing from that date.

The Secretary, Boorugupudi Gram Panchayat, 2nd respondent herein terminated the lease of the petitioner, through proceedings, dated 28.10.2005, on the ground that it committed default in payment of the lease amounts. The petitioner contends that the amount of Rs.3,40,000/-, shown as dues for the year 2002 (Fasli 1412), cannot be recovered, in view of the Circulars issued by the Government, providing for remission, in case there is drought. It is also stated that a sum of Rs.84,000/-, which is due for the previous fishing season, has since been deposited. The petitioner undertakes to pay half of the lease amount for the current fishing season by the end of December 2005.

In the counter affidavit filed on behalf of the Gram Panchayat, the correspondence that ensued between the petitioner and themselves has been

referred to. It is stated that despite several demands, the petitioner committed default, and left with no other alternative, they have cancelled the lease of the petitioner.

Heard Sri M.S.Ramachandra Rao, the learned counsel for the petitioner, Sri M.Prabhakar Rao, the learned counsel for the Gram Panchayat, Sri O.Manohar Reddy, the learned counsel for the Sarpanch and the learned Government Pleader for Panchayat Raj.

It is not in dispute that the petitioner was granted lease for three years commencing from 13.09.2004. The basis for cancellation of lease is the alleged failure of the petitioner in payment of the lease amount for the year 2002 and part of the amount payable for the previous year. The petitioner is also said to have committed default in payment of half of the lease amount payable for the current fishing season.

So far as the amount payable for the year 2002 (Fasli 1412) is concerned, there is serious dispute between the parties. While the petitioner states that it is entitled for remission, on the ground that there is drought during that period, the respondents contend that the competent authority did not render any decision, in this regard. The dues for the previous fishing season are said to have been cleared. The petitioner states that it would deposit half of the lease amount for the current fishing season by the end of December 2005.

Having regard to the facts and circumstances of the case, the Writ Petition is disposed of, directing that-

a. the liability of the petitioner to pay the lease amount for the year 2002 (Fasli 1412) shall be determined by the 1st respondent herein, after ascertaining the views of the petitioner as well as the Gram Panchayat, within a period of two (2) months from the date of receipt of a copy of this order. The parties

shall abide by the decision of the 1st respondent, in this regard;

b. the petitioner shall deposit half of the lease amount for the current fishing season on or before 31.12.2005 and the remaining half, before it commences fishing operations;

c. the undertaking to the above said effect shall be furnished by the Person-in-charge Committee of the petitioner-society, within a period of two (2) weeks from today, before the 1st respondent; and

d. subject to the above conditions, the order of cancellation is set aside. However, in case the petitioner commits default, the order of cancellation shall stand revived.

e. There shall be no order as to costs.

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25.11.2005

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